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CERCLA REMEDIAL ENFORCEMENT SECTION

OF COUNSEL

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*ALSO ADMITTED IN N.J.

SEP 10 1986

September 9, 1986

EPA-Region III

Timothy T. Travers, Compliance Officer
PA CERCLA Remedial Enforcement Section
(3 HW 12)
U.S Environmental Protection Agency
Region III
841 Chestnut Building
Philadelphia, PA 19107

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CERCLA REMEDIAL ENFORCEMENT SECTION

Re: Blossenski Land Fill
Route 340 Site
West Caln Township
Chester County, PA

EPA-Region III

Dear Mr. Travers:

As you know, our office represents Betz Laboratories, Inc. ("Betz") in connection with the above-mentioned "Superfund" site. This letter is responsive to the July 17, 1986 letter from Stephen R. Wassersug to Fern Telmosse, President of Betz. In earlier correspondence, you have been gracious enough to grant an extension of the time within which to respond to Mr. Wassersug's letter. This extension has enabled us to more thoroughly review both our records, those of EPA and records of the Pennsylvania Department of Environmental Resources. Consequently, we believe that the following response to Mr. Wassersug's letter is as complete as we are able to make.

Although we wish to be fully responsive to EPA's request for information, we do believe Mr. Wassersug's letter is broader than the Agency's authority to seek information. For example, the letter seeks information with regard to "substances" while the Acts pursuant to which the information is requested only authorizes the Agency to seek information with regard to "hazardous substances".

Other questions as to which we have specific objections will be noted below. For the convenience of EPA, our responses are numbered to correspond to the numbered questions beginning on page 3 of Mr. Wassersug's letter.

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1. Betz Laboratories has no records of having sent any hazardous substances, or indeed any substances at all, to the Blosenski Landfill, Route 340 Site, West Caln Township, Chester County, Pennsylvania.

2. Not applicable.

3. Not applicable.

4. Not applicable.

5. Not applicable.

6. Betz has no knowledge of any person who may have generated, treated, stored, transported or disposed of or who arranged for the treatment, storage, disposal or transportation of such substances to the Blosenski Landfill, Route 340 Site, other than information it has obtained as a result of meeting with other PRPs, the identity of which the Agency already knows. Because Betz does business nationwide, indeed worldwide, it is possible that it has done business with some of the other PRPs and therefore may have documents which relate to those business dealings. However, Betz has no documents which in any way relate to the generation, treatment, storage, transportation or disposal, (or the arrangement for such services) of hazardous substances at the Blosenski Landfill Site. We do not interpret question No. 6 in Mr. Wassersug's letter to call for the production of all documents which Betz may have relating to PRPs if those documents are limited to routine commercial transactions between Betz and its customers and not otherwise related to the Blosenski Landfill Site and, therefore, Betz has not made any attempt to search for or produce documents unrelated to the Blosenski Site.

As noted above, Betz has no documents which in any way relate to other generators, treaters or storers or transporters at the Blosenski Landfill Site.

7. Not applicable.

8. Betz has had no dealings with any of the persons identified in paragraph No. 8 of Mr. Wassersug's letter during the period 1960 through 1981 in connection with the Blosenski Landfill Route 340 Site.

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9. Not applicable.

10. Not applicable.

11. The only correspondence between Betz and any regulatory agencies regarding this Site or the Blossenski Disposal Company, are communications directly between Betz and Region III. Consequently, your file should already have all such communication.

12. The only correspondence responsive to paragraph No. 12 would be communications between Betz Laboratories and members of the PRP group established subsequent to receipt of your letter. We do not believe that such correspondence is the proper subject of Mr. Wassersug's letter.

13. Inapplicable.

In addition to the foregoing, at page 5 of his letter, Mr. Wassersug asked us to identify the types of records which were maintained by our company relating to the above questions. Since Betz has no documents to produce, this question is inapplicable. Generally speaking, however, Betz maintained routine business records documenting its commercial transactions such as requisition forms, bills of lading and interoffice communication related to the disposal of its waste. No such records relating to the Blossenski Site have been found and would not be expected to exist since Betz never used that site.

The information set forth above, was obtained from several employees of Betz Laboratories whose names are listed below, all of whom may be reached through Betz's corporate offices at 4636 Somerton Road, Trevose, Pennsylvania 19047 (215) 355-3300. Any communication with these individuals should be made either through this office or through James H. Decker, Esquire, Assistant General Counsel to Betz:

Robert W. Small, Esquire
James H. Decker, Esquire
Dr. Dwight P. Davis
Richard Zuckerman
Dr. H. Lieberman
Roy Manley
Keith Schwarz
David Hochberg
Nancy Mooney

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Information was obtained from these individuals both through interviews and through their written responses to the request of counsel. Those communications simply sought information responsive to the questions raised in Mr. Wassersug's letter. Because of the attorney-client privilege, Betz is not prepared at this time to produce copies of the written responses to inquiries from its counsel. Betz does represent that no such response contained any information connecting it to the Blosenski Site.

Mr. Wassersug also asked at page 5 of his letter, for Betz to provide information relating to insurance it may have with regard to releases of hazardous waste.

We respectfully submit that under the holding of United States v. Charles George Trucking Co., Inc., 624 Fed. Supp. 1185 (1986), such information is not the proper subject of inquiry in the present form and we respectfully decline to provide such information.

Finally, on page 3 of his letter, Mr. Wassersug asked that we include a statement of work for the remedial measures Betz intends to undertake at the Site. In view of the foregoing, our client does not believe it has any involvement whatsoever with the Blosenski Site and it should be delisted by EPA from the list of potentially responsible parties. As you know, we have been working with the PRP group which has been loosely established in this matter only so that we may stay fully informed. However, because of lack of involvement at this Site, Betz does not intend to perform any work at the Blosenski Site.

At this time we would like to address the documents which the Agency has provided which it believes connects us to the Site. These consist of an August 19, 1976 internal memorandum of the Pennsylvania Department of Environmental Resources from Mark A. Rosenberg to Tom Oravetz, an invoice from Joseph Blosenski, Jr. dated July 31, 1976 and directed to Inland Pump & Dredging Company on which somebody has handwritten the name "Betz Labs", and a July 29, 1976 invoice from Blosenski Disposal Co. to Inland Pumping on which the name Philadelphia Electric appears.

We do not believe any of these documents tie Betz to the Blosenski Site. With regard to Mr. Oravetz's memorandum, you will note that the reference there is to Betz Specialty Chemical Company. Neither Betz nor any of its subsidiaries has ever operated under that name. In addition, we have attempted through the offices of the Secretary of State to ascertain whether that

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name has ever been used in the Commonwealth of Pennsylvania and have not learned that anyone has used the name Betz Specialty Chemical Company. Moreover, even if that reference is to Betz the resins which Betz dealt in at the time were not such that they would constitute hazardous materials subject to regulation under RCRA or CERCLA. Also, Betz does not deal with medical supply wastes. Consequently, we do not believe that this reference is to our client.

The July 31, 1976 invoice from Joseph Blossenski, Jr. to Inland Pumping, clearly relates to the Philadelphia Electric Company. How the name Betz Labs came to be written on that invoice, we cannot say. However, we have undertaken a search of our records and have learned that Betz did not sell any resins to Philadelphia Electric during the two (2) year period prior to the date of that invoice.

With reference to the July 29, 1976 invoice from Blossenski Disposal Co. to Inland Pumping, we assume that this is tied to Betz simply because of the proximity of its date to the invoice from Joseph Blossenski, Jr. to Inland Pump & Dredging Company. As noted above, that invoice has no relation to Betz and consequently neither can the latter invoice relate to Betz.

As I have explained to Ellen Teplitzky, Esquire of EPA, Betz has historically maintained good environmental practices and has disposed of its waste in proper fashion long before required to do so by environmental laws. A diligent search has been made by our client to ascertain any involvement it may have had with the Blossenski Site and that search has revealed neither any documents nor any information which would indicate Betz ever sent anything to the Site. The documents which EPA have produced do not link Betz to that Site, would likely be inadmissible in a court of law even if they did, and do not appear to relate to any hazardous materials that would be subject to regulation under either RCRA or CERCLA.

With the foregoing in mind, we respectfully request that EPA remove Betz from its list of potentially responsible parties in this matter. We would appreciate your advising us with regard to this request as promptly as you are able in view of the substantial transactional costs which our client is likely to continue to incur if it is obligated to continue to participate with the other PRPs in their further dealings in this matter. We submit that it would be extremely unfair of the Agency to keep Betz in this matter when there is no adequate basis to do so.

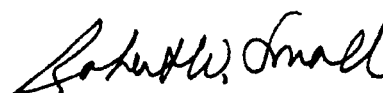
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We trust that the foregoing is fully responsive to Mr. Wassersug's letter; however, should further questions remain, please do not hesitate to call upon me. We look forward to the Agency's prompt decision on our request to be removed from this matter.

Very truly yours,



Robert W. Small

RWS:ph

cc: James Decker, Esquire
Ellen Teplitzky, Esquire

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